

PROPOSED REGULATION TEXT

Article 3. Juvenile Court Commitment

§ 4170.5. Discretion to Accept or Reject.

The Division of Juvenile Justice (DJJ) may accept or reject a commitment from a juvenile court based on Sections 1736, 733, 734 and 736 of the Welfare and Institutions Code.

The Division may in its discretion accept youths committed to it if it believes that the youth can be materially benefited by its rehabilitative/treatment programs, and if it has adequate facilities to provide such care. The Division of Juvenile Justice shall also accept a youth committed to it provided that the Chief Deputy Secretary of the Division of Juvenile Justice certifies that staff and institutions are available (a) if he is a borderline psychiatric or borderline mentally deficient case or (b) if he suffers from a primary behavior disorder.

DJJ is prohibited from accepting "more youths than can be materially benefited by DJJ's rehabilitative and educational discipline" and it prohibits the Division from accepting "youths for whom the DJJ does not have adequate facilities or staff.

NOTE: Authority cited: Section 1712, Welfare and Institutions Code. Reference: Sections 733, 734, 735 736 (a). and 1736, Welfare and Institutions Code.

~~The Youth Authority may accept or reject a commitment from a juvenile court based on Sections 1736 and 736 of the Welfare and Institutions Code which read in pertinent part as follows:"1736. . . . and the authority may in its discretion accept such commitments." "736. (a) The Youth Authority shall accept a person committed to it pursuant to this article if it believes that the person can be materially benefited by its reformatory and educational discipline, and if it has adequate facilities to provide such care. No such person shall be transported to any facility under the jurisdiction of the Youth Authority until the director thereof has notified the committing court of the place to which said person is to be transported and the time at which he can be received." "(b) The Youth Authority shall also accept a person committed to it pursuant to this article, provided that the Director of the Youth Authority certifies that staff and institutions are available (a) if he is a borderline psychiatric or borderline mentally deficient case, (b) if he is a sex deviate unless he is of a type whose presence in the community, under parole supervision, would present a menace to the public welfare, or (c) if he suffers from a primary behavior disorder. No such person shall be transported to any facility under the jurisdiction of the Youth Authority until the director thereof has notified the committing court of the place to which such person is to be transported and the time at which he can be received. To implement the administration of this paragraph, the Director of the Youth Authority and the Director of Mental Hygiene (Mental Health) shall, at least annually, confer and establish policy with respect to the types of cases which should be the responsibility of each department."~~

§ 4171. Decision to Accept or Reject on Material Benefit.

(a) ~~Persons~~ Youth committed from a juvenile court will be accepted if they can be materially benefited, provided that necessary facilities and, programs, staff and rehabilitative services are available.

(b) Determinations of material benefit will be based on one or both the following standards:

(1) A ~~person~~-youth will be materially benefited when there is reasonable possibility that his likelihood to commit delinquent behavior can be significantly reduced or eliminated within the confinement time and jurisdiction time available. Factors to be considered under this subsection include:

A) Capacity. Does the ~~person~~-youth have the capacity to change? Considerations in making this determination include:

- (i) The ~~person's~~-youth's intelligence.
- (ii) The ~~person's~~-youth's ability to communicate.
- (iii) The absence of a pronounced psychosis.

(B) Tractability. Is the ~~person's~~-youth's delinquent behavior so firmly established that there is little likelihood that it can be changed by commitment to the ~~Youth Authority~~ Division of Juvenile Justice.? Considerations in making this determination include:

- (i) The ~~person's~~-youth's history of criminal/delinquent behavior.
- (ii) The ~~person's~~-youth's degree of criminal sophistication.
- (iii) The success of prior efforts to help the ~~person~~-youth change his behavior.
- (iv) Whether the ~~person~~-youth has demonstrated willingness to participate in programs designed to result in correction of unacceptable behavior.

(2) A ~~person~~-youth will be materially benefited and the public protected when incapacitation is needed to shield the public and such ~~person~~-youth from further delinquent behavior. Factors to be considered under this subsection include:

A) The incidence of delinquent behavior.

(B) History of close association with non-law-abiding ~~persons~~youth.

(C) Emotional stability.

(D) Apparent motivation to commit further crimes, ~~e.g., for example~~, revenge, etc.

(E) Family associations that do not support law-abiding behavior.

NOTE: Authority Cited: Section 1712, Welfare and Institutions Code. Reference: Section 736 (a), 1741, Welfare and Institutions Code.

§ 4171.5 Acceptance and Rejection Criteria for youth with Medical or Mental Health Conditions

(A) The Division of Juvenile Justice (DJJ) shall accept or reject a youth committed to it based on whether the youth can be materially benefited by the DJJ's rehabilitation model and educational programs, and if the DJJ has adequate facilities and staff to provide such care.

DJJ is responsible for performing an individualized review of all youth committed by the courts for determination of whether the youth will materially benefit from DJJ's rehabilitative and educational programs and whether adequate facilities, staff and programs exist to provide for the youth. As part of that determination, DJJ staff shall review the youth's records for medical and mental health conditions that interfere with the youth's ability to materially benefit from DJJ's programs or for which DJJ does not have adequate facilities, staff or programs to provide care—and for which DJJ cannot otherwise reasonable accommodate through modified programming or facilities.

(B) DJJ does not accept youth who are seriously ill or have health impairments whose commitment would involve serious risk of permanent disability or long-term detriment to health status, or whose medical conditions are so extreme as to interfere with the youth's ability to materially benefit from DJJ's programs (including regular attendance at school and rehabilitative programs) or for which DJJ does not have adequate facilities, staff or programs to provide care—and for which DJJ cannot otherwise reasonably accommodate through modified programming or facilities.

(C) DJJ does not accept youth with mental health conditions and associated limitations that are sufficiently severe to interfere with the youth's ability to materially benefit from DJJ's programs (including regular attendance at school and rehabilitative programs) or for which DJJ does not have adequate facilities, staff or programs to provide care—and for which DJJ cannot otherwise reasonably accommodate through modified programming or facilities.

In cases where the Division of Juvenile Justice's (DJJ) notifies the county that a committed youth will not be accepted by DJJ, the county may request that an Inter-disciplinary Team Review be held to discuss other placement options for the youth.

The Inter-disciplinary Team's recommendations will be forwarded to the Director of Division of Juvenile Facilities (DJF). The Director of the DJF shall review the Inter-disciplinary Team's recommendations and provide input prior to referring case to the Chief Deputy Secretary of DJJ. The Chief Deputy Secretary or designee will make the final decision regarding rejection of commitment.

NOTE: Authority cited: Section 1712, Welfare and Institutions Code. Reference: Sections 733, 734, 735 and 1741, Welfare and Institutions Code.

§ 4172. Exceptions to Material Benefit Determinations.

~~The provisions of Section 4180 of these regulations notwithstanding, a material benefit determination will not be made on persons who are described under Section 736 (b) of the Welfare and Institutions Code. These cases include (a) a borderline psychiatric or borderline mentally deficient case, (b) a sex deviate, unless he is of the type whose presence in the community, under parole supervision, would present a menace to the public welfare, or (c) a person who suffers from a primary behavior disorder. These cases will be accepted regardless of whether they can be materially benefited provided that adequate facilities are available and other applicable provisions of law and these regulations are met.~~

~~Note: Authority cited: Section 1712, Welfare and Institutions Code. Reference: Section 736, Welfare and Institutions Code.~~

§ 4173. Requirement to Provide Information.

~~(a) (Reserved)~~ Pursuant to Welfare and Institutions Code 1742, when the juvenile court commits a youth to the Division of Juvenile Justice who is identified as an individual with exceptional needs, as defined by Section 56026 of the Education Code, the juvenile court shall not order the juvenile conveyed to the physical custody of the Division until the youth's previously developed individualized education program previously developed has been furnished to the Division.

In order to enforce this requirement, the court shall indicate on the court commitment documents whether:

- The youth is an individual with exceptional needs
- The youth is not an individual with exceptional needs or
- Education records do not indicate that a determination has been made regarding any exceptional needs that the youth may have.

~~(b) (Reserved)~~

~~(b)(e)~~ The information requirements and requested information described in Sections 4168.5 and 4169 of these regulations apply to persons-youth committed by a juvenile court.

~~NOTE: Authority Cited: Section 1712, Welfare and Institutions Code. Reference Section 735, 1740-and-, 1741 and 1742, Welfare and Institutions Code.~~

§ 4174. Acceptance or Rejection Action.

The ~~Department~~ Division shall make a decision to accept or reject a committed ~~person~~ youth within 16 work-hours, or as soon thereafter as possible, after the receipt of the information and documents described in Sections 4168.5 and 4169 of these regulations.

~~NOTE: Authority Cited: Section 1712, Welfare and Institutions Code. Reference Section 732, Welfare and Institutions Code.~~

§ 4174.5. Notice of Action and Delivery Approval.

~~(a) (Reserved)~~ ~~(b) (Reserved)~~ ~~(c)~~ The ~~Department~~ Division shall notify the committing court and probation department of its acceptance or rejection decision. When a case has been accepted, the notice shall designate the time and place for delivery to a ~~Youth Authority~~ Division of Juvenile Justice facility.

NOTE: Authority Cited: Section 1712, Welfare and Institutions Code. Reference: Sections 732, 736, 1731.6 and 1752.1, Welfare and Institutions Code.

§ 4174.6. Time Limit on Acceptance.

Notice that a case has been accepted shall become void 90 days from the date it was issued unless the ~~person-youth~~ has been delivered to a ~~Department~~Division reception center-clinic. If not delivered within 90 days, the case may be resubmitted for acceptance action as provided by Section ~~41704~~168. Required and optional information as provided by Section 4173 shall be current to the date of resubmission.

NOTE: Authority Cited: Section 1712, Welfare and Institutions Code. Reference: Section 735, Welfare and Institutions Code.